

November 27, 1996

OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON  
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Seattle, Washington 98104  
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REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL.

SUBJECT: Department of Development and Environmental Services File No. **L94P0021**  
Proposed Ordinance No. **96-780**

**KAYWOOD ESTATES II**  
Preliminary Plat Application

Location: On the south margin of SE 204th Street, southeast of the intersection of  
104th Place SE and SE 204th Street

Applicant: Patrick Bader  
20213 - 106th Avenue SE  
Kent, WA 98031  
(206) 852-1975

Owner: Patrick Bader  
20213 - 106th Avenue SE  
Kent, WA 98031  
(206) 852-1975

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary:	Approve, subject to conditions
Division's Final:	Approve, subject to conditions (modified)
Examiner:	Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application or petition submitted: December 29, 1994

EXAMINER PROCEEDINGS:

Hearing Opened: November 21, 1996, 9:20 a.m.  
Hearing Closed: November 21, 1996, 10:10 a.m.

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

➤ Street trees

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

- General Information:  
  
Owner/Developer: Patrick Bader  
20213 - 106th Avenue SE  
Kent, WA 98031  
(206) 852-1975  
  
Engineer: Pacific Engineering Design, Inc.  
Attn: John R. Newell, P.E.  
130 Andover Park East, Suite 300

Seattle, WA 98188  
 (206) 431-7970  
 STR: 5-22-5  
 Location: On the south margin of SE 204th Street, southeast of the intersection of 104th Place SE and SE 204th Street  
 Zoning: RS-7200-P  
 Acreage: 2.53  
 Number of Lots: 10  
 Lot Size: Ranges from 7,791 to 9,720 square feet  
 Proposed Use: Single-family detached residences  
 Sewage Disposal: Soos Creek Water & Sewer District  
 Water Supply: Soos Creek Water & Sewer District  
 Fire District: Fire District #37  
 School District: Kent School District #415

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the November 21, 1996 public hearing are found to be correct and are incorporated herein by reference. Copies of the LUSD report will be attached hereto for submittal to the Metropolitan King County Council. The LUSD staff recommends approval of the application, subject to conditions.
3. A Mitigated Determination of Non-Significance was issued by the King County Department of Development and Environmental Services on September 24, 1996. The MDNS contains conditions requiring a restrictive stormwater detention release rate designed to avoid aggravation of existing downstream pipe capacity problems. It also requires relocation of a spillway which provides overflow from the detention pond of the adjacent plat of Kaywood Estates I. The applicant filed a timely appeal of the MDNS conditions. However, King County Staff and the applicant have stipulated to a revision of the MDNS conditions upon the basis of which the applicant has agreed to withdraw his threshold determination appeal.
4. Staff also provided testimony describing the walking route between the plat and Springbrook Elementary School. According to Staff testimony, there are either sidewalks or paved shoulders along the entire route traveled by elementary students between the plat and the school.
5. The applicant's engineer objected to certain terms within proposed Condition No. 17, which is based on requirements stated within the Soos Creek Area Zoning P-Suffix conditions and mandates the provision of street trees along plat road frontages. Mr. Newell questioned whether requiring street trees along the eastern boundary of the plat within the 104th Place SE right-of-way will serve any useful purpose and, if such trees are required, who will maintain them. He also questioned the feasibility of requiring trees to be maintained by abutting lot owners where the right-of-way edge is located at the plat boundary and no lots abut that boundary.
6. As proposed, 104th Place SE, although along the boundary for Kaywood Estates II, will be entirely located on-site. Therefore, it is a residential access street which is "contained within the development" and subject to a P-suffix requirement for street trees to be planted every 30 feet on both sides. Not only is the P-suffix provision stated in mandatory terms, but we agree with the Staff that the drainage pond lying immediately off-site to the east is an unattractive facility for which screening, however minimal, will be of value. However, Condition No. 17 has been revised to clarify that plat lot owners will not be responsible for maintaining trees within those portions of the public right-of-way which do not directly abut their respective lots.

#### CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval recommended herein, including dedications and easements, will provide improvements which promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

#### RECOMMENDATION:

APPROVE the preliminary plat of KAYWOOD ESTATES II, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.

2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The area and dimensions of all lots shall meet the minimum requirements of the RS-7200 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Land Use Services Division.
4. The applicant shall obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187.
6. The applicant shall obtain the approval of the King County Fire Protection Engineer and demonstrate compliance with the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04, and the storm drainage requirements and guidelines as established by the Surface Water Management Division. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and apply to all plats.
  - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and updates which were adopted by Public Rule effective January 1, 1995. LUSD approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by LUSD Engineering Review, shall be shown on the engineering plans.
  - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # \_\_\_\_\_ on file with LUSD and/or the King County Department of Transportation. This plan shall be submitted with the application for any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
9. The applicant shall comply with King County Code 27.40, King County Road Mitigation Payment System (MPS), by paying the required MPS fee as determined by King County Department of Transportation (KCDOT), plus an administrative fee. The applicant has an option to either: 1) pay the MPS fee and MPS administrative fee at final plat application, or 2) pay the MPS fee and MPS administrative fee at the time of building permit application. If the first option is chosen, a note shall be placed on the face of the plat stating: "All fees required by King County Code 27.40, King County Road Mitigation Payment System (MPS), have been paid". If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
10. Lots within this subdivision are subject to King County Ordinance 10162 and Ordinance 12063 which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fees shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance. A note to this effect shall be placed on the final plat.
11. There shall be no direct vehicular access to or from SE 204th Street from those lots which abut this street. A note to this effect shall appear on the final plat and engineering plans.
12. The following conditions specify the required road improvements:
  - a. One Hundred Fourth Place SE (104th Place SE) shall be improved as an urban minor access street, including a sidewalk on one side of the roadway.
  - b. The south half of SE 204th Street along the frontage of the property shall be improved as an urban neighborhood collector. Improvements east and west of the site may also be necessary to transition into the existing road improvements.
  - c. Tract A shall be improved as a joint-use driveway, consistent with the requirements of KCRS

3.01.C.3. The tract shall have a minimum width of 20 feet, with an 18-foot wide paved surface.

- d. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
- 13. Ten feet of additional right-of-way for SE 204th Street shall be dedicated along the north property line in order to provide 30 feet of right-of-way from centerline.
- 14. Lots 1 and 2 shall have undivided ownership of Tract A and be responsible for its maintenance. Lot 3 and Tax Lot 0522059239 shall not be permitted to use Tract A for vehicular access. A note implementing these provisions shall appear on the final plat and engineering plans.
- 15. A planter island, if proposed within the cul-de-sac bulb, shall be maintained by the abutting lot owners. This shall be stated on the face of the final plat.
- 16. Clearing and grading activities on the site shall conform with Soos Creek "P" Suffix Condition I.B (pp. 147-148, Soos Creek Area Zoning). Building envelopes or clearing restrictions shall appear on the final engineering plans, as required by Condition I.B.
- 17. Street trees shall be provided on both sides of 104th Place SE within the subject plat and on the property's frontage on SE 204th Street, consistent with the requirements of Soos Creek "P" Suffix Condition II.A. (pp. 151-152, Soos Creek Area Zoning). The following requirements shall also apply:
  - a. Trees shall be planted at a rate of one tree for every 30 feet. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
  - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless KCDOT determines that trees should not be located in the street right-of-way.
  - c. If KCDOT determines that the required street trees should not be located within the right-of-way, those trees directly adjacent to lots within the plat shall be located no more than 20 feet from the street right-of-way line, and those planned for the east side of 104th Place SE may be deleted.
  - d. After expiration of the maintenance bond required by sub-paragraph (g) below, the trees directly adjacent to lots shall be maintained by the abutting lot owners, and those on the east side of 104th Place SE shall be maintained by KCDOT, unless KCDOT has adopted a maintenance program providing for its maintenance of all street trees within the plat. This shall be noted on the face of the final recorded plat.
  - e. The species of trees shall be approved by KCDOT if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers or which is incompatible with overhead utility lines.
  - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by LUSD, prior to engineering plan approval.
  - g. The street trees shall be planted and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be planted and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be planted per the approved plan, a maintenance bond shall be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after LUSD has completed a second inspection and determined that the trees have been kept healthy and thriving.

A \$538 landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fee schedule.

- 18. The following have been established by SEPA as necessary requirements of this development as mitigation. The applicant shall demonstrate compliance with these items prior to final approval.
  - a. To prevent aggravation of an existing downstream pipe capacity problem (see the Level II Drainage Analysis received by King County on August 3, 1995 and Downstream Conveyance Investigation received November 12, 1996), the following conditions have been imposed under the authority of SEPA:
    - 1) Stormwater detention shall be computed using an SCS-based hydrograph method (or other method approved by King County). The performance of the detention facility shall be such that discharge from the developed are shall be no more than:

\* The pre-developed 2-year, 10-year and 100-year/24-hour release rate for design

storm events up to and including the 100-year/ 24-hour storm event. A 30% safety factor shall be added to the volume of the R/D facility.

- 2) The above detention facility release rate may be modified as approved by DDES if the downstream pipe capacity problem is corrected. (See the Level III Drainage Analysis received by King County August 3, 1995.)
- b. The existing emergency overflow spillway from the Tract A detention pond in adjoining Kaywood Estates I outlets onto proposed Lot 10 of Kaywood Estates II. The existing spillway shall be relocated or reconfigured to convey to the proposed 104th Place SE drainage system. A suitable catch basin or other design as approved by DDES shall be shown on the engineering plans at engineering plan submittal to address the relocation or reconfiguration of the spillway. The Kaywood Estates II drainage facilities need not be sized to account for the Kaywood Estates I overflows.

The downstream conveyance system evaluated by the Level III Drainage Analysis (August 3, 1995 and the Downstream Conveyance Investigation (November 12, 1996) complies with the requirements of the SWDM Core Requirement #2 (pages 1.2.2-4 to 1.2.2-5).

RECOMMENDED this 27th day of November, 1996.

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Stafford L. Smith, Deputy  
King County Hearing Examiner

TRANSMITTED this 27th day of November, 1996, to the following parties and interested persons:

Patrick J. Bader	King Conservation District	Dennis Lund
Daniel R. Morris	John Newell	New Construction Services
John L. Scott Land Dept.	Sandra/Shari Watanabe	

Lanny Henoch, DDES/Land Use Services Division  
Tom Koney, Metropolitan King County Council  
Aileen McManus, DDES/Building Services  
Michaelene Manion, DDES/Land Use Services Division  
Lisa Pringle, DDES/Land Use Services Division  
Steve Townsend, DDES/Land Use Services Division  
Gary Samek, King County Dept. of Transportation  
Bruce Whittaker, DDES/Land Use Services Division

#### NOTICE OF RIGHT TO APPEAL AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before December 11, 1996. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before December 18, 1996. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE NOVEMBER 21, 1996 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L94P0021 - KAYWOOD ESTATES II, SEPA AND PLAT:  
Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Lanny Henoch, Bruce Whittaker, Luanne Coachman, and John Newell.

The following exhibits were offered and entered into the record:

Exhibit No. 1	Department of Development and Environmental Services File No. L94P0021 - Kaywood Estates II
Exhibit No. 2	Department of Development and Environmental Services Preliminary Report to the King County Hearing Examiner for the November 21, 1996 public hearing
Exhibit No. 3	Application, received December 29, 1994
Exhibit No. 4	Environmental Checklist, received December 29, 1994
Exhibit No. 5	Amended Environmental Checklist, amended by Paul Wozniak, LUSD, on September 2, 1996
Exhibit No. 6	Mitigated Determination of Non-Significance, published September 24, 1996
Exhibit No. 7	Affidavit of Posting, received by DDES October 21, 1996
Exhibit No. 8	Revised plat map, received May 4, 1995
Exhibit No. 9	Land use map, Kroll pages 608E and 609W
Exhibit No. 10	King County Assessor Map - SW 05-22-05
Exhibit No. 11	Appeal of SEPA determination, filed by John Newell, representative for the applicant, on October 9, 1996
Exhibit No. 12	Level 1 Hydraulic Analysis, received December 29, 1994
Exhibit No. 13	Preliminary Drainage Analysis and Design, received May 4, 1995
Exhibit No. 14	Level III Drainage Analysis, received August 3, 1995
Exhibit No. 15	Revised SEPA condition
Exhibit No. 16	Downstream Conveyance Investigation, dated November 12, 1996
Exhibit No. 17	Photo of south third of east property line, showing wood fence and brush

SLS:gb

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